

Notice of Allowability

Application No.

10/784,082

Examiner

Sanza L. McClendon

Applicant(s)

CHAPPELOW ET AL.

Art Unit

1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/8/06.
2. ☒ The allowed claim(s) is/are 1-14 and 16-18.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

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DETAILED ACTION

Response to Amendment

1. In response to the Amendment received on December 8, 2006, the examiner has carefully considered the amendments. The examiner acknowledges the cancellation of claim 15 and the addition of new claims 17-18.

Response to Arguments

2. Applicant's arguments, see Remarks/Amendment, filed December 8, 2006, with respect to claims 1-18 have been fully considered and are persuasive. The rejection of claims 14-16 under on the grounds of nonstatutory obviousness-type double patenting over claim 1-2 6,653,486 has been withdrawn. Relying on applicant's statements in the remarks, specifically on page 9, 3rd paragraph to page 10, and reconsideration of '486, the examiner deems that the instant claims are distinct from the cited claims of '486.

The rejection of claims 1-16 on the grounds of nonstatutory obviousness-type double patenting in view of claims 1-29 of US 6,458,865 has been withdrawn. Relying on applicant's remarks, specifically on page 10, section 2 to page 11, and reconsideration of '865, the examiner deems the instant claims are distinct from those cited in '865.

The rejection of claims 1-16 under 35 USC 102(e) as being anticipated by Chappelow et al (6,653,486; 6,486,865; 2002/0013380; and 2003/0119931) has been withdrawn. Relying on applicant's remarks, specifically on page 11, section II to the end, and reconsideration of all cited references, the examiner deems the instant claims are distinct from those cited in the rejections.

Allowable Subject Matter

3. Claims 1-14 and 16-18 are allowed.

4. The following is an examiner's statement of reasons for allowance: The prior art, alone or in combination, fails to teach dental matrix resins comprising a dioxiranyl 1,5,7,11-tetraoxaspiro [5.5] undecane, dioxirane and a cationic polymerization initiator. Additionally, the prior art, alone or in combination, fails to teach a dental restorative as instantly claimed. Nor does the prior art, alone or in combination, teach a method of making dioxiranyl 1,5,7,11-tetraoxaspiro [5.5] undecane as instantly claimed and the dioxiranyl 1,5,7,11-tetraoxaspiro [5.5] undecane as found in claims 16-18.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays,

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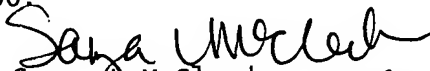
should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sanza L. McClendon whose telephone number is (571) 272-1074. The examiner can normally be reached on Monday through Friday 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on (571) 272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Sanza L. McClendon
Examiner
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3/16/07

SMC